

RUMSON ZONING BOARD OF ADJUSTMENT
JULY 15 2014
MINUTES

Chairman Conklin called the regular meeting to order at 7:30 p.m. with the Pledge of Allegiance. The Roll was called with the following members present: Conklin, Duddy, Seaman, Sylvester, Blum, Brodsky, Wood, Cottrell. Also present: Bernard Reilly (Board Attorney), Fred Andre (Zoning Officer), State Shorthand.

The requirements of the Open Public Meetings Act were stated as met.

Mr. Andre was sworn in at this time.

James & Marie Orsini, 2 Waterway (Continued Application)

Philip SanFillipo, attorney, appeared on behalf of the applicants. Dr. Wood and Mr. Cottrell will not sit in on this application. Mr. San Fillipo has three witnesses from the prior meeting available for testimony this evening.

David Lynch, architect, still under oath from the last meeting, explained the changes to the plan:

- They have reoriented the garage to face the side yard, reducing the total length of the building;
- The building will now be at elevation 12'.

The remainder of the plan stays the same. They also adjusted the position of the building, keeping in mind the trees along the driveway area. The overall length of the house is now 99.10', instead of 110'. This was achieved via the rotation of the garage. The additional 5' setback was obtained by pushing the house to the west. The other pre-existing conditions will remain the same. The height of the building is conforming. The house will be set on pilings, and by raising the house, they will be adding height and steps in some areas. Other than these modifications, the testimony from the prior meeting does not change.

Mr. Sylvester asked if the total length of the house includes the garage, and Mr. Lynch said it did.

Mrs. Seaman asked about the grading, and Mr. Lynch said there will be some grading, but they are essentially maintaining most of the existing grade. The back section along the entryway will be graded to minimize the amount of steps, and additional steps will be added around the patio and pool. The plan is to retain all runoff on site.

Charles Lindstrom, engineer, also still under oath, testified as to the grading, noting they will be grading from 6' – 7' around the house to grade away from the foundation. The roof drains will be collected and piped to rain gardens along the south part of the property, allowing the water to percolate into the ground. There is not a great amount of fill, and he explained their plans for the grade around the pool and patio area. The driveway will be stone. He does not think any storm water will flow on to other properties, due to their grading plan. The design is to make sure that storm water from the site does not flow on to nearby properties, but will flow toward the water.

Michael Levkulich, landscape architect, also still under oath, noted that the colored version of the site plan will be marked A-3 and shows no major changes. He proceeded to explain the changes to the trees, noting an added evergreen tree to improve the buffer between the properties, which will now be 10' – 12' high.

The rain garden is to capture rain water above ground and allow it to percolate back into the ground. The plantings included will be native to the area. The revised tree plan was discussed with Mr. Brooks, Borough Forester, and they will now be planting Zelkova trees, which is a heartier species for this area. Mr. Brooks agreed with their tree mitigation plan. Mr. Levkulich described the Zelkova trees, which will be 17' – 19' in height, and could grow to 30' high.

The rain garden will require some maintenance, such as grooming and other upkeep – possibly once or twice a year. The plantings proposed for the rain garden will include grass perennials, ferns, etc. – all salt tolerant. The run off would be captured by the rain gardens, designed to handle up to 100-year rain fall. The rest of the site has natural areas to handle the water absorption. They will apply for a CAFRA permit for their plan. The water around the pool and patio will also run toward the rain garden, along with other vegetation that will intercept the water and have it flow to the lawn area. Their design for the rain garden complies with the Storm Water Management requirements for New Jersey. The rain gardens will percolate the water into the ground within 72 hours. Maintenance would probably be required after a storm to remove debris, according to Mr. Levkulich, in response to a comment from Chairman Conklin.

There were no comments or questions from the public.

Mrs. Seaman asked how many trees will be removed, and Mr. Levkulich said 24 will be coming down, and they will be replacing these with 28 new trees.

Mr. Sylvester thinks the applicant has been responsive to the Board's comments by moving the building. He thinks the mitigation plan for the water and the trees is adequate, and he would support the application in its present form.

Chairman Conklin asked for confirmation that they would be following the proper tree removal actions and obtaining all necessary permits. Mr. SanFillipo confirmed this.

Mr. Duddy feels the applicant has addressed the Board's concerns, and he does not think there is any way to make the construction totally comply. He thinks the rain gardens are better than what is presently on the lot, and is a good compromise. The roof design will soften the look, and they have pushed it back as far as they can. He would also support the application.

Mr. Brodsky agrees that the applicant has been responsive and has come up with a good plan. He likes the way they have made adjustments to mitigate the variances.

Chairman Conklin thinks it is better than the original plan.

Mrs. Seaman questioned the Pin Oak to be removed, and Mr. Andre said it did not meet the requirements for a significant specimen tree. Mrs. Seaman thinks they have done a good job with the drainage.

Mr. Brodsky moved to approve the revised application, and Mr. Sylvester seconded.

Roll Call Vote: Ayes – Conklin, Blum, Brodsky, Sylvester, Seaman, Duddy

Nays – None

Motion carried.

Dr. Wood and Mr. Cottrell rejoined the meeting at this time.

Burke Development Associates, 119 Blackpoint Road

Mr. Sylvester will not sit in on this application.

Rick Brodsky, attorney, appeared on behalf of the applicants. He explained their plan to remove an existing single-family home and construct a new two-story, single-family home, approximately 2,094.5 sq. ft. in size. There are a number of existing nonconformities with respect to the property, as it is an undersized lot in the R-5 zone.

- 5,460 sq. ft. existing / 6,000 sq. ft. required;
- Lot frontage - 50' required / 37.5' existing;
- Lot width – 50' required / 35' existing;
- Lot circle – 34' required / 20' existing;
- Minimum setback – 16' required / 6' proposed (essentially what exists today);
- Proposed building coverage exceeds 85%, so setback requirements are increased.

The house is proposed in almost the same spot as the existing home.

Steve Mazurek, architect, was sworn in and the Board accepted his qualifications. A photo of the current site was shown to the board and marked A-1. He said they originally were proposing a detached garage, but the narrowness of the lot would not be appropriate for this. They have a front porch and living area on the first floor and four bedrooms on the second floor. The height, floor area, building coverage, and lot area all conform. They are looking for a variance for the 2' in width. They are proposing to put the garage on the left side and put a new curb cut on that side. This will allow them to keep an existing tree. There is another driveway on the east side. They will be keeping the footprint in the same location as it now exists. The width of the house is 20'.

Mr. Cottrell questioned the side yard variance, and Mr. Mazurek stated it will be the same or better than what currently exists.

Terry Wall, 121 Blackpoint Rd., was sworn in and said she lives next to this property. They were happy that the tree will not be removed. She is concerned with the possible flooding with this construction, since they experienced a problem after other new construction occurred on this street. She questioned the depth of the house, and Mr. Mazurek said it will be 8' farther back than the existing house. The new house will be slightly farther away from her property line (6' proposed / 5.49' existing). There will be a 10' setback on the other side. Mr. Mazurek said that

the property is relatively flat, and their first floor elevation will not change. There is an existing basement, and they will also provide a full basement. There will not be a significant amount of grading, and roof leaders and down spouts will go toward the driveway to go out to Blackpoint Road. The new house will be 8' deeper than the existing home.

Mr. Andre said the basement would need to be 2' above the high water line, so a sump pump should not be required. The existing basement is completely dry, according to Mr. Mazurek.

The area between the two driveways will have a grass strip. Mr. Mazurek does not plan any type of fence or plantings. Mr. Andre said the ordinance requires 1' off the property line. Construction should start in early fall.

There were no other questions or comments from the public.

Chairman Conklin asked about the wood deck shown on the back of the house, and Mr. Mazurek said they do not propose a deck, but only a patio. The wood deck on the engineer's plan is an error, and they will submit a revised plan to show this correction.

Mr. Blum asked about the down spouts and if they were only planning them for the front. He noted they are typically proposed for each corner, but the plan only shows them in the front. He thinks it is necessary to also have them bring the roof water from the rear to the front. Mr. Mazurek said this plan was done by Nelson Engineering. Mr. Rick Brodsky said they will have this included on the revised plan.

Mr. Duddy agrees with Mr. Blum's comments about the rain gutters, and Mr. Mazurek said he will address this with Nelson Engineering and show this on the revised plan. They could also incorporate a dry well in the rear.

With this addition, the members of the board stated they would be in favor of the application. The resolution will not be passed until they see these revisions on the plan. Mr. Rick Brodsky said they will submit this as early as possible to be reviewed before the next meeting.

Mr. Brodsky moved to approve the application, and Mr. Cottrell seconded.

Roll Call Vote: Ayes – Conklin, Blum, Brodsky, Seaman, Duddy, Wood, Cottrell

Nays – None

Motion carried.

Mr. Sylvester rejoined the meeting at this time.

Gregory & Noushin Framke, 8 Edwards Point Road

Philip SanFillipo, attorney, appeared on behalf of the applicants. Charles Lindstrom, engineer, was sworn in, and the Board accepted his qualifications as a professional engineer and planner. He explained their plan to raze the existing house and rebuild the house on the existing foundation, elevated to the advisory base flood elevation. The house is in the R-1 Zone. He described the existing nonconformities:

- Front setback to Edwards Point Road – 100' required / 56.8' existing – They are rebuilding on foundation with similar setbacks (56.7');
- Interior lot shape – 115' required / 101' existing – limited by the Shrewsbury River.

The only other variances will be for the accessory structure (pool house) on the lot without a principal structure. This will be a temporary condition.

There is no way to comply with the circle requirement on this lot. The front setback cannot achieve 100', unless the entire house was moved toward the water, which would require an increase in the elevation. It would have more of an impact to shift the house, in Mr. Lindstrom's opinion. He feels there is a benefit to leave the house in its current location, because it is farther away from the river and higher up on the land, providing a better resistance to flooding and allowing the owners to better utilize the rear yard area. The flood elevation for this lot is 9', and they are proposing 11.24' by raising the foundation and providing grading. The construction will comply with FEMA requirements. It is his opinion that the variances can be granted without substantial detriment to the public good. The house has been in this condition for 50 years and will not essentially change, except for the elevation to comply with the flood requirements. He noted the slope in the land toward the river. A large tree located between the house and the pool house was to have been removed, but their current plan now saves this tree. The pool in the rear yard will not affect any trees, and the pool will also meet the requirements of the ordinance. They will be applying for a CAFRA permit.

The storm water was described, and the site can accommodate an underground dry well draining system, which they will do. The storm water runs in the direction of the river and not to adjoining properties, for the most part. Their intention is to maintain the existing drainage patterns. They will be adding on to the rear with a new porch and new pool, but there is not a great deal of additional water being created with this project, and they can deal with this with the underground system.

Chairman Conklin noted that they will be keeping the foundation and rebuilding the house over this area. They are also adding to it with the rear porch. It was noted that if they were only raising the home, they would not need to come before the board.

Mr. Brodsky asked about the height, and Mr. Lindstrom said the current height is 35', and the new home will be 46.49' where 50' would be allowed. Mr. Brodsky also asked about using the existing foundation, although they are going up substantially higher. He noted that the existing home looks fine because it is not as high as the proposed house. He thinks the new house is very high and very close to the street. He thinks there are areas in the rear where they could move the house back to provide more front setback for the 2 ½ storey house, which is 11' higher than the existing house – 40' closer to the road than what is required.

Mr. Sylvester asked about the foundation, and Mr. Lindstrom said he has not inspected the foundation. He was asked if the standards for foundations have changed over the past 50 years, and Mr. Lindstrom said not majorly. He was not aware of any discussion to reorient the entire house.

Alexander Bol, architect, was sworn in, and the Board accepted his qualifications. He stated the proposed layout is similar to the existing house. They tried to originally renovate the house, but found issues with flood elevations and damage from the storm. The foundation is adequate to support the house. There are no problems with the foundation walls. The orientation of the house looks out toward the water, as are others along this area. A photo board was shown to describe the property, and copies were also distributed to the Board. The photos, taken last Friday, were marked A-1. They show the existing house and other neighboring homes to the right and left and rear. Their 2 ½ story plan would provide room on the top floor for storage and mechanicals. They increased the pitch of the roof line to provide this space.

Mr. Bol stated they will be making the foundation walls stronger and will have several flood vents, according to flood regulations. These are indicated on the flood plan (3 in the garage and 7 in the house). The height of the house conforms to the ordinance. The main body of the house has an increased height from 8' to 9', and the pitch will be increased for the HVAC equipment. There will also be a "crow's nest" on the top floor to provide a space to sit and look at the view. No bathroom or plumbing will be provided in this area. The living space in the current house and proposed house was described by Mr. Bol, who stated they mostly would be similar to each other. All the proposed rooms are in the same location. They will be improving the house with this plan. The existing ridge is 35.6', and the ridge on the new house will be 40'. This includes the raising of the house and adding the adequate space and providing a 9' ceiling height on the first floor. The height of the "crow's nest" is 46.5' and is behind the front elevation of the house.

The home will be in keeping with others in the neighborhood, and Mr. Bol described the details of the materials for construction, which will be a shingle-style home. The orientation toward the river is typical for this neighborhood. They will be building a pool in the area near the existing pergola, and he located this on the plot plan. They will be applying a 1 1/2" stone veneer to the foundation to make it more aesthetically pleasing.

Mr. Bol was asked if he knew the heights of the homes on either side, and he said he did not know, but the one house was already raised.

Mr. Brodsky again questioned the height of the existing roof, which he does not think appears to be 35', as stated by Mr. Bol. Mr. Lindstrom said that from ground level to the top of the ridge is 28.5', taking away the 7.5' elevation. The new ridge will be 39' from ground to peak, from elevation 11.24' for a total of 35.25' to the highest point of the ridge. The new roof line will be 4' higher than the existing roof line, looking at it from the street, according to Mr. Bol. The grade pitches from the street, and they do not propose any additional fill. The existing basement will be filled in to 4', and will be expanded out with flood venting.

Chairman Conklin asked if this was a reconstruction or a new situation that is expanded over what currently exists, providing a higher house close to the street. He questioned the setbacks of the nearby homes, and Mr. Bol noted that the newer house appears to be set farther back, and the older home appears to be similar. Chairman Conklin pointed out that this basically newer house will be sitting closer to the road than the newer house nearby, which is setback farther. He thinks it is basically a brand new house, and he asked why it could not be moved farther back on the lot. Mr. Bol said moving the house back would affect the neighbor's view of the water; although

Chairman Conklin does not think they know exactly where this house is located on the lot. The homes shown in the photos next to this lot appear to be set farther back than their proposal.

Mr. Duddy thinks the house is at a highest point on the lot, and pushing it back 50' would cause a difficulty, since it would cause a great deal of disturbance on the lot. He does not think it would make sense to push the house back on the lot.

Mr. Cottrell agrees and commented that the house to the right of this house would have a visual impact if they moved this house back. He thinks the view is beautiful as it exists, and he does not think it should be disturbed.

There were no questions or comments from the public.

Mrs. Seaman agrees that less disturbance close to the water is a better plan. She agrees that they should conform when starting from scratch, but she appreciates not moving all the earth and keeping the house where it is, since it will only be 4' higher than the existing house. The new house will be approximately 630 sq. ft. larger than the existing house.

Mr. Blum does not have a problem with the application. He would be opposed to moving it back, as it is on the high point of the property. All the houses are oriented to the southwest to take advantage of the view. The house is essentially being built on its foundation, with the exception that the corner is being squared out to add on to the building. He questions the large tree, although they now say they will not be removing this tree. The house is being raised a little over 1', which will be invisible from the street when it is done and will not be apparent. The main ridge going up 4' is not excessive, in his opinion. The "crow's nest" is a feature that is very small and inconsequential.

Mr. Sylvester thinks this is a new house in the same location, bigger, but being a balance on the lot. It makes sense to him, and he does not think they are asking for too much.

Mr. Blum questioned the location of the A/C compressors, which will remain in the same location, and Mr. Bol said they will be shielded from view and built on a platform. This will be a part of the resolution to screen this area.

Mr. Cottrell moved to approve the application, and Mrs. Seaman seconded.

Roll Call Vote: Ayes – Conklin, Blum, Brodsky, Seaman, Duddy, Sylvester, Cottrell, Wood

Nays – None

Motion carried.

Approval of Minutes

Mrs. Seaman moved to adopt the June minutes, with corrections, and Mr. Brodsky seconded.

Voice Vote: Ayes, unanimous.

Joseph & Sandra Pignataro, 30 Warren St.

Wayne Lerman, architect, was sworn in, and the Board accepted his qualification. He explained that they received approval previously to add on to the existing residence and construct a new,

two-car garage. They have evaluated the conditions to the main house, and they have found that it would be more beneficial to raise the entire house, instead of only a portion of the house, as previously approved. Also, they decided to put a two-car garage on the east side of the house, making it a part of the main structure. The only variance is about 45 sq. ft. where they changed the setback on the side, which is 16.5', which they feel adds to the design element of the house. The amount of building coverage has actually decreased (2,325 sq. ft. prior / 2,272 sq. ft. current). The site plan shows the additions, which change the setback by 44 sq. ft.

Mr. Sylvester thinks it makes sense to raise the entire house. He asked about the existing garage and cited from the prior resolution, which noted that the existing garage regularly flooded and was not sufficient for their needs. He asked why they now propose to keep the garage, and Mr. Lerman said it will be primarily for storage. They will not be eliminating the existing garage, and they will not be using it to park a car. Mr. Sylvester is struggling with the fact that the existing garage is nonconforming, and they now have two new garages.

Mrs. Frieze was sworn in and stated she did not know the age of the original garage, based on a question from Mr. Brodsky. She stated they have no storage in the house, and they need this garage for storage.

There will be one curb cut on South Ward Ave. and one on Warren. The third curb cut would be eliminated.

Mr. Blum said he does not have a problem with the whole house being raised. The site improvements with the garage will not work, in his opinion, due to the depth of the proposed driveway. The driveway does not give access to the garage, in his opinion. He thinks the driveway design will need to be changed, in order to allow them to go in and out of the garage. Mr. Lerman said there is 22' available, but he has no problem making a change to accommodate the necessary space available.

Mr. Brodsky asked about the design of the driveway wrapping around toward the existing garage, and Mrs. Frieze said they need this for additional ingress when there is flooding on the lot. He questioned the amount of driveway proposed, suggesting another design might look better. Mrs. Frieze noted that there is a hardship on the lot, due to the flooding in the area.

There were no comments or questions from the public.

Mr. Lerman showed photos of the existing condition, noting the curb cut area and the gravel and landscape areas.

Mr. Blum pointed out that the garage under the house poses a new plan, and the existing driveway now needs to be changed to allow for maneuverability.

Mr. Frieze was sworn in and stated that the additional driveway area allows for additional cars to be parked on the lot.

Mr. Blum thinks the existing garage is an eye sore and needs to be fixed up. He understands the need for storage, but this building does not look very nice. Mrs. Frieze said they plan on doing this.

Mr. Duddy is not sure about the garage.

Dr. Wood is not opposed and understands the need, but thinks it should be fixed up.

Mr. Brodsky understands the extra storage and suggested possibly making it into a shed without another entranceway. Mrs. Frieze said the flooding is the worst on Waterman, and having the garage area has enabled them to get in and out of the property when it is flooded.

Mrs. Seaman thinks the applicants have a better sense of the water problems in the area, and she would support allowing them to keep the garage and make it look better. She knows the water problems in this area and thinks they are doing the best they can to make it livable.

Mr. Cottrell would support the application and thinks the final drawings are tasteful. He agrees that the Frieze's are the best ones to comment on the flooding in the area and their needs on this lot.

Mr. Sylvester thinks it would be nice to make the garage a storage shed, but he understands their needs, based on the water issues in the area.

Mr. Blum noted they are right on the maximum lot coverage, and to make the plan work, they need more driveway area. Mr. Lerman stated that they will be putting in additional landscaping and they could take out some of the stone area.

Chairman Conklin thinks they need to redo the driveway area to allow for sufficient maneuvering on the lot. Mr. Lerman suggested taking out some of the stone area, so that the lot coverage does not increase.

Mr. Blum would consider exceeding the maximum lot coverage if the application was otherwise functional, since it is such an unusual lot. However, now it does not work, and he thinks they need more driveway to make it work. Mr. Lerman again suggested taking out more stone work and providing more landscaping.

Chairman Conklin said the board would need to see how they would propose to fix this problem. Mr. Lerman suggested conditional approval, so they could start the construction on the home, which they have not been able to live in for over three years.

Mr. Frieze stated they would like to get back into their home, and they would be willing to widen the driveway to meet the requirement. He asked the Board to help them achieve this.

Mr. Reilly advised that the Board could address it by approving the application, subject to the change in the driveway and the removal of some building coverage, so that no additional variance would be needed. Mr. Lerman suggested he revise the plan to show the increase in the

driveway and elimination of some of the stone. Mrs. Frieze again commented that the situation is hard to understand, unless you live in this area.

Mr. Reilly made some suggestions where gravel could be removed, so that they do not go over the lot coverage. Mr. Lerman said he could do this.

Chairman Conklin asked if they intended to make sure that the lot coverage does not exceed the maximum under the ordinance (4,750 sq. ft.), and they said they would. Also, they would make sure to provide adequate turnaround for the driveway area. This could be reviewed by Fred Andre and Mr. Blum. If it is found to be inadequate, they would need to redo it.

Mr. Duddy would like to see the people get back into the house. He acknowledges that it is an unusual lot with a unique set of problems.

Mrs. Seaman agrees, and would not have a problem if they get the driveway problems worked out.

Messrs. Sylvester and Cottrell said they would support approving the application with the conditions mentioned.

Dr. Wood asked if the garage doors could be moved to the other side to make it more accessible.

Mr. Brodsky would prefer the existing garage be changed to just a shed.

Mr. Reilly has prepared a resolution and will add a section to say that the driveway will need to be revised and a revised plan will be submitted to show the omission of the driveway area, so that they do not exceed the lot coverage. Also, the revised plan will be reviewed and approved by the borough officer and engineer.

Mr. Duddy moved to approve the resolution, subject to working with the town engineer to make sure that the lot coverage does not exceed maximum. Mrs. Seaman seconded.

Roll Call Vote: Ayes – Conklin, Blum, Brodsky, Seaman, Duddy, Sylvester, Wood, Cottrell

Nays – None

Motion carried.

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 11:00 p.m.

The next meeting will be **August 19, 2014.**

Respectfully submitted,

Patricia Murphy
Clerk